

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TONY THAI,

Plaintiff,

v.

WILD EYE DESIGNS INC.,

Defendant.

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CIVIL ACTION NO. 2:15-CV-01165

PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT

TO THE COURT CLERK:

NOW COMES, TONY THAI, Plaintiff, requesting that the Court Clerk enter a default against Wild Eye Designs, Inc., as authorized by Federal Rule of Civil Procedure 55.

I. INTRODUCTION

1. Plaintiff is Tony Thai; Defendant is Wild Eye Designs, Inc.
2. On June 24, 2015, Plaintiff filed its Original Complaint in this Court. *See* Exhibit "A." Defendant's registered agent was served with process, including a copy of the complaint and summons, via certified mail, return receipt requested, on July 6, 2015, and again on August 17, 2015. *See* Exhibits "B-1" and "B-2." Defendant has not answered or filed a responsive pleading.
3. Plaintiff is entitled to entry of default.

II. ARGUMENTS

4. The court clerk may enter a default against a party who has not filed a responsive pleading or otherwise defended the suit. Fed. R. Civ. P. 55(a); *see U.S. v. \$23,000 in U.S.*

Currency, 256 F.3d 157, 163 (1st Cir. 2004); *N.Y. Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996).

5. The Clerk should enter a default against Defendant because Defendant did not file a responsive pleading within twenty-one (21) days after July 6, 2015, or August 17, 2015, the dates of service of process. Fed. R. Civ. P. 12(a)(1)(A)(i); *see* Fed. R. Civ. P. 55(a).

6. The Clerk should enter a default against Defendant because Defendant did not otherwise defend the suit. Fed. R. Civ. P. 55(a). Defendant has not made an appearance in the suit or filed an answer.

7. Plaintiff meets the procedural requirement for obtaining an entry of default from the Clerk as demonstrated by Aaron Peacock's sworn affidavit, entitled "Affidavit of Defendant's Failure to Plead or Otherwise Answer," attached hereto as Exhibit "C."

8. The Defendant is not a minor or an incompetent person. *See* Fed. R. Civ. P. 55(b)(1).

9. The Defendant is not in military service. *See* U.S.C. app. § 521(b)(1).

III. CONCLUSION

10. Because Plaintiff filed its Original Complaint in this Court, Defendant was properly served with process on July 6, 2015, and on August 17, 2015, more than twenty-one (21) days has elapsed since Defendant was served and Defendant has not answered the lawsuit or otherwise appeared, Plaintiff is entitled to have the Clerk enter a default. For these reasons, respectfully Plaintiff asks the Clerk to enter a default against Defendant and in favor of Plaintiff.

Respectfully Submitted,

/s/ Aaron P. Peacock

Aaron P. Peacock

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